



California Regional Water Quality Control Board

San Diego Region

Winston H. Hickox
Secretary for
Environmental
Protection

Internet Address: <http://www.swrcb.ca.gov/~rwqcb9/>
9174 Sky Park Court, Suite 100, San Diego, California 92123
Phone (858) 467-2952 • FAX (858) 571-6972



December 28, 2001

Certified Mail – Return Receipt Requested

Mr. Joseph Lucidi
15105 Lucidi Farm Way
Poway, CA 92064

Dear Mr. Lucidi:

Cleanup and Abatement Order No. 2001-382

Enclosed is California Regional Water Quality Control Board, San Diego Region (Regional Board) Cleanup and Abatement Order (CAO) No. 2001-382 concerning the improperly designed culvert and discharge of waste to an unnamed tributary of Rattlesnake Creek on property located at 15105 Lucidi Farm Way in Poway, California. A copy of the October 31, 2001 Regional Board inspection that confirmed the violations is also attached.

The CAO is issued pursuant to Water Code § 13304 and directs you to clean up and abate the effects associated with the unauthorized discharge of waste material to the stream. Note the deadlines contained within the CAO. Failure to meet the deadlines may subject you to further enforcement action by the California Regional Water Quality Control Board, San Diego Region, including administrative or judicial proceedings for the assessment of civil liability in amounts of up to \$10,000 per day; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

You may contest the issuance of this CAO by requesting a public hearing on the matter before the Regional Board. In order to schedule a hearing meeting, this office must receive a written request no later than 5 PM on January 29, 2002. The next scheduled meeting of the Regional Board is February 13, 2002. Be aware that a request for a hearing does not stay any of the deadlines in the CAO.

I strongly urge a prompt and complete response to each directive in CAO No.2001-382. Please contact Mr. Mo. Lahsaie of my staff at (858) 637-5587 if you have any questions regarding this matter.

Respectfully,

JOHN H. ROBERTUS
Executive Officer

California Environmental Protection Agency

Recycled Paper



Mr. Zip Lucidi

- 2 -

December 28, 2001

JHR/mja/ml:

C:\WINDOWS\TEMP\GWViewer\CAO for Lucidi Transmittal letter-Updated.doc

- Enclosure:
1. CAO No. 2001-382
 2. October 31, 2001 Inspection Report

cc: Shannon Bryant, Army Corps of Engineers
Tamara Spear, California Department of Fish and Game
Danis Bechter, Development Services, City of Poway
Javid Siminou, City Engineer, City of Poway
Patti Briudle, City Planner, City of Poway
Michele Stress, Dept. of Environmental Health, County of San Diego

California Environmental Protection Agency

Recycled Paper



**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

**CLEANUP AND ABATEMENT ORDER NO. 2001-382
FOR JOSEPH LUCIDI PROPERTY AT 15105 LUCIDI FARM WAY,
POWAY, CALIFORNIA**

The California Regional Water Quality Control Board, San Diego Region (Regional Board), finds that:

1. Mr. Joseph Lucidi (hereinafter discharger) owns property located at 15105 Lucidi Farm Way, Poway, California.
2. Mr. Joseph Lucidi has caused and/or permitted clearing, grading and the discharge of waste, including sand, silt, clay and other earthen materials to an unnamed tributary of Rattlesnake Creek bisecting the subject property in Poway, California. The waste material and an improperly installed culvert at the stream crossing has obstructed and diverted the natural surface flow from this stream.
3. The site described in this Order, 15105 Lucidi Farm Way, Poway, is located in the Poway Hydrologic Area (906.20) of Penasquitos Hydrologic Unit (906) as described in the "Water Quality Control Plan, San Diego Basin (9)" (hereinafter Basin Plan).
4. The Basin Plan established the following designated beneficial uses for surface waters of Rattlesnake Creek: Agricultural Supply (AGR), Industrial Service Supply (IND), Contact Water Recreation (REC-1), Non-contact Water recreation (REC-2), Warm Freshwater Habitat (WARM), Cold Freshwater Habitat (COLD), Wildlife Habitat (WILD).
5. Inadequate protection of the soil at the stream crossing threatens to cause additional discharges of sediment to the stream and threatens to cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses.
6. The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code Section 13264 is a Waste Discharge Prohibition of the Basin Plan. The discharge of waste to waters of the State constitutes a violation of Waste Discharge Prohibitions of the Basin Plan.
7. Discharges into waters of the United States that require a federal permit or license also require certification (in accordance with Section 401 of the Clean Water Act) from the Regional Water Quality Control Board (RWQCB) that the discharge will comply with the State's water quality standards. The discharger failed to obtain certification prior to a discharge that causes or contributes to a condition of nuisance or pollution or violates water quality standards is a violation of Clean Water Act.
8. Pursuant to CWC Section 13304, the Regional Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Regional Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order.

9. This action is an Order to enforce the laws and regulations administered by the Regional Board. As such, this action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15321 of the Resources Agency Guidelines.


IT IS HEREBY ORDERED, PURSUANT TO SECTION 13304 OF THE CALIFORNIA WATER CODE, that the discharger or its agents, successors, or assigns, (hereinafter referred to as discharger) shall take remedial action to cleanup and abate the effects of the discharge, as described in the above findings:

1. By February 1, 2002, remove and cleanup all waste discharged to the affected stream and take all necessary remedial actions to abate the effects associated with the discharge of waste to the stream described in findings of this Order. Implement erosion and sediment control to minimize additional discharge prior to fully implementing corrective actions.
2. By April 1, 2002, develop and implement a site restoration plan that will fully compensate for the temporal loss of habitat and water quality functions that have been caused by the discharge of waste to these streams. A site restoration/mitigation plan must address all unauthorized impacts to unnamed tributary to Rattlesnake Creek. The plan shall include, but not be limited to, plant palette, planting diagrams, maintenance and monitoring program, and identification of buffers.
3. By May 1, 2002, complete all cleanup and abatement efforts described in this Order and provide under penalty of perjury under the laws of California a "Certification of Completion" statement to the Regional Board identifying that directives of this Order have been met.
4. The discharger shall be responsible for obtaining all necessary approvals, licenses, or permits from all local, State, and Federal agencies with jurisdiction for all streambed cleanup and restoration work which might be required to mitigate for the environmental impacts caused by the silt and sediment discharges. These agencies may include: the City of Poway, the California Department of Fish and Game, the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the County of San Diego, and the Regional Board.

The "Certification of Completion" shall include the following signed statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Pursuant to California Water Code Section 13350, any person who intentionally or negligently violates a cleanup and abatement order may be liable civilly in an amount which shall not exceed five thousand dollars (\$5,000), but shall not be less than (\$500), for each day in which the cleanup and abatement order is violated.



JOHN H. ROBERTUS
Executive Officer

12/27/01
Date issued